IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B.CIVIL WRIT PETITION NO.2942/2002.

M/s.Manoj Trading Company.

VERSUS

The State of Rajasthan & Others.

27.11.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Mahesh Gupta, for the petitioner.
None present for the respondents.

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The petitioner has challenged the order (Annexure-5) dated 30.04.2002.

The brief facts are that the petitioner's license granted under the Rajasthan Agriculture Produce Markets Act, 1961 (hereinafter referred to as "the Act of 1961") was suspended for a period of six months (180 days) vide Annexure-1 by Mandi Samiti on 04.12.1999. Thereafter, the petitioner preferred an appeal under Section 16 of the Act of 1961. The appeal filed by the petitioner came to be decided vide order dated 25.07.2000 which has been filed as Annexure-3, which reads as follows:-

> "पत्रावली प्रस्तुत हुई । उभय पक्ष उपस्थित । अपीलांट द्वारा मण्डी समिति दौसा के आदेश दिनांक 4.12.99 जिसके द्वारा अपीलांट फर्म का अनुज्ञापत्र 6 माह के लिये (180 दिन) निलम्बित किया गाया था, के विरुद्ध राजस्थान कृषि उपज विपणी अधिनियम, 1961 की धारा 16 के अन्तर्गत अपील प्रस्तुत की है ।
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> चूंकि अनुज्ञापत्र निलम्बन की अवधि समाप्त हो चुकी है तथा मण्डी स्तर पर वाद शमन किया जाकर राशि मण्डी कोष मे जमा हो चुकी है । अतः अपीलांट की अपील खारिज की जाती है । पत्रावली फैसलशुमार होकर दफ्तर दाखिल हो ।"

Learned counsel for the petitioner submits that the respondents having compounded the main case itself and the petitioner having deposited an amount of Rs.5,222/-, as is evident from Annexure-4, there was no question of the respondents having passed the order (Annexure-5) requiring the license of the petitioner to remain suspended for a period of 175 days. The said order (Annexure-5) dated 30.04.2002 reads as under:-

> "मैसर्स मनोज ट्रेडिंग कम्पनी, राजा कालोनी, सुन्दरदास मार्ग, दौसा के व्यापारी के स्थाई अनुज्ञा पत्र को प्रशासक महोदय, कृषि उपज मण्डी समिति, दौसा के आदेश क्रमांक 1791-99 दिनांक 4-12-99 से 6 माह (180 दिवस) की अवधि के लिए निलम्बित किया गया था । अब मुख्य विधि सहायक, कषि विपर्णन विभाग, राज. जयपुर के पत्रांक 1116-17 दिनांक 3-4-2002 तथा मण्डी समिति के निर्णय दिनांक 30/4/2002 की पालना में निलम्बन की शेष अवधि 175 दिवस को प्रभावी करते हुए उक्त अवधि के लिए निलम्बित किया जाता है ।"

It is submitted that once a decision has already been taken in appeal under Section 16 of the Act for compounding the offence in quasi-judicial proceeedings requiring the petitioner to deposit the amount as directed under the order dated 25.07.2000 (Annexure-3), the question of further suspension of license for 175 days for the same offence did not arise on the basis of any so-called opinion expressed by the Head Legal Assistant.

I have gone through the reply filed by the respondents and find that the respondents have committed an error in holding that the petitioner's license was liable to be suspended for 175 days vide Annexure-5 quoted above. In the facts and circumstances which have

been mentioned and as would be evident from the order (Annexure-3), it is clear that the matter had been finally decided with the order to compound the offence on payment of fine. The aforesaid fine having been deposited, the question of suspending the license for a further period of 175 days did not, in my opinion, at all arise merely on the opinion of the Head Legal Assistant. Once, the main case itself has been decided in the statutory appeal by the appellate authority exercising powers under Section 16 of the Act as the same are quasi-judicial proceedings, the question of suspension of the license for the same offence did not arise on the basis of any subsequent expression of opinion. The appeal having been decided vide Annexure-3 by the Director, nothing further remained to be done after the deposit of the fine. The order (Annexure-5) dated 30.04.2002, by the Mandi Secretary, in my opinion, deserves to be set aside as he had no jurisdiction in the matter after the appeal had been decided by the appellate authority. Consequently, the same is hereby set aside. The order (Annexure-5) is quashed.

Consequently, the writ petition as well as the stay application stand disposed of.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.